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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2000/31

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Executive summary

This report, which is submitted pursuant to Commission on Human Rights resolution 2000/31, covers information received and communications sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in the period from 16 December 1999 to 10 December 2000. The report, which is divided into seven chapters, focuses on different aspects of the problem of extrajudicial, summary or arbitrary executions and contains the Special Rapporteur's observations on issues falling within the purview of her mandate.

Chapter I gives a summary of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents observations regarding violations of the right to life of special groups. Chapter V gives an analysis of issues of special focus requiring further attention and consideration. Chapter VI gives an overview of developments as a follow-up to the Special Rapporteur's country visits. Finally, in chapter VII the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in combating the problem of extrajudicial, summary or arbitrary executions.

The Special Rapporteur further presents two addenda to the present report. Addendum 1 describes 63 country situations, which include in summary form the information transmitted and received by the Special Rapporteur, including communications received from Governments, as well as the Special Rapporteur's observations where required and considered appropriate. Addendum 2 contains the Special Rapporteur's report on her visit to Nepal from 5 to 14 February 2000.

Introduction

1. This report is submitted pursuant to the Commission on Human Rights resolution 2000/31 of 20 April 2000. It is the third annual report submitted to the Commission by Ms. Asma Jahangir and the eighteenth submitted since the mandate on summary and arbitrary executions was established by Economic and Social Council resolution 1982/35 of 7 May 1982.

2. The present report covers information received and communications sent in the period from 16 December 1999 to 10 December 2000, and is divided into seven chapters. Chapter I gives a summary of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents observations regarding violations of the right to life of special groups. Chapter V gives an analysis of issues of special focus, requiring further attention and consideration. Chapter VI gives an overview of developments as a follow-up to the Special Rapporteur's country visits. Finally, in chapter VII the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in combating the problem of extrajudicial, summary or arbitrary executions.

3. The Special Rapporteur further presents two addenda to the present report. Addendum 1 describes 62 country situations, which include in summary form the information transmitted and received by the Special Rapporteur, including communications received from Governments, as well as the Special Rapporteur's observations where required and considered appropriate. Addendum 2 contains the Special Rapporteur's report on her visit to the Kingdom of Nepal from 5 to 14 February 2000.

4. Since her appointment the Special Rapporteur has continued to receive more and more harrowing reports of violations of the right to life in all regions of the world. The cruelty of these crimes and their devastating effects on the victims and the human family are beyond comprehension, and we must recognize our obligation to do everything in our power to bring an end to these atrocities. Very few flash points have been extinguished and in the last year uncontrolled violence has resulted in a series of massacres.

I. THE MANDATE

A. Terms of reference

5. In resolution 2000/31, the Commission on Human Rights requested the Special Rapporteur to continue to examine situations of extrajudicial, summary or arbitrary executions, to respond effectively to information which comes before her and to enhance further her dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries. The Commission also requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

6. In its resolution, the Commission also requested the Special Rapporteur to apply a gender perspective in her work and to pay special attention to violations of the right to life of children, participants in demonstrations or other public manifestations, persons belonging to minorities, and individuals carrying out peaceful activities in defence of human rights and fundamental freedoms. The Commission further urged the Special Rapporteur to draw to the attention of the United Nations High Commissioner for Human Rights such situations of extrajudicial, summary or arbitrary executions as are of particularly serious concern to her or where early action might prevent further deterioration. The Commission welcomed the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures relating to human rights and encouraged the Special Rapporteur to continue efforts in that regard.

B. Violations of the right to life upon which the Special Rapporteur takes action

7. During the present reporting period, the Special Rapporteur acted in the following situations:

(a) Genocide;

(b) Violations of the right to life during armed conflict, especially of the civilian population and other non-combatants, contrary to international humanitarian law;

(c) Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State;

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;

(e) Deaths in custody owing to torture, neglect, or use of force, or life-threatening conditions of detention;

(f) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, private individuals, or groups cooperating with or tolerated by the Government, as well as by unidentified persons who may be linked to the categories mentioned above;

(g) Expulsion, refoulement, or return of persons to a country or a place where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national borders;

(h) Deaths due to acts of omission on the part of the authorities, including mob killings. The Special Rapporteur may take action if the State fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction;

(i) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(j) Breach of the additional obligation to provide adequate compensation to victims of violations of the right to life, and failure on the part of Governments to recognize compensation as an obligation;

(k) Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes where capital punishment is imposed in violation of articles 6 (2) and 15 of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child, article 77 (5) and other relevant articles of the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977. In addition, the Special Rapporteur is guided by various resolutions of United Nations organs and bodies, in particular:

(i) General Assembly resolutions 2857 (XXVI) of 20 December 1971 and 32/61 of 8 December 1977 regarding capital punishment;

(ii) General Assembly resolution 44/128 of 15 December 1989, in which the Assembly adopted and opened for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(iii) Commission on Human Rights resolutions 1997/12, 1998/8, 1999/61 and 2000/65 regarding the death penalty;

(iv) The Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in resolution 1984/50 on 25 May 1984, and endorsed by the United Nations General Assembly in resolution 39/118, adopted on 14 December 1984;

(v) United Nations Economic and Social Council resolution 1989/64 adopted on 24 May 1989.

8. In view of these guidelines and international standards, the Special Rapporteur acts where:

(a) The crime concerned cannot be considered "most serious", as stipulated under article 6 (2) of the International Covenant on Civil and Political Rights;

(b) The death penalty is imposed retroactively;

(c) Persons are sentenced to death for crimes committed when they were less than 18 years of age;

(d) Expectant or recent mothers face the death penalty;

(e) Persons suffering from mental illness or handicap or those with extremely limited mental competence are facing the death penalty;

(f) When a death sentence which has been implemented is posthumously overturned;

(g) Consular assistance is denied or not made available to a person facing the death penalty;

(h) The accused is denied his or her right to appeal or seek pardon or commutation of a death sentence;

(i) A death sentence is imposed following a trial where international standards of impartiality, competence, objectivity and independence of the judiciary were not met;

(j) The legal system does not conform to minimum fair trial standards;

(k) The death penalty is imposed as a mandatory measure without due regard to the safeguards enumerated above and where compelling mitigating circumstances are not taken into consideration.

C. Legal framework and methods of work

9. For an overview of the international legal standards by which the Special Rapporteur is guided in her work, she makes reference to the report of her predecessor to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68). The Special Rapporteur has largely followed the methods of work developed and applied by the previous Special Rapporteur, Mr. Bacre Waly Ndiaye, which are described in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 13-67), as well as his subsequent reports to the Commission (E/CN.4/1995/61, paras. 9-12 and E/CN.4/1996/4, paras. 11-12).

II. ACTIVITIES

A. General remarks

10. Cooperation and coordination with other human rights mechanisms of the Commission on Human Rights are vital to the discharge of the Special Rapporteur's mandate. During the present reporting period, the Special Rapporteur held a number of consultations with the Office of the High Commissioner for Human Rights in Geneva, during which she had the opportunity to meet with the High Commissioner for Human Rights and her staff as well as with a number of other special rapporteurs and representatives of the Commission on Human Rights. She has also on numerous occasions taken joint action, including joint urgent appeals with other special rapporteurs and working groups mandated by the Commission on Human Rights. The Special Rapporteur presented her report to the fifty-sixth session of the Commission on Human Rights on 6 April 2000 (E/CN.4/2000/3 and Add.1-3). On 24 October 2000, she introduced her interim report to the fifty-fifth session of the General Assembly (A/55/288). She regrets that she was unable to attend the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedure of the Commission on Human Rights held in June 2000. Instead, she attended meetings held at the same time in New York on the follow-up to the Fourth World Conference on Women ("Beijing + 5").

B. Communications

11. The Special Rapporteur is fully aware that the communications presented in this section do not cover every case of violation of the right to life. The data present below represent only the tip of the iceberg, but they do broadly reflect the actual situation. More importantly, the possibility of bringing individual complaints to the attention of the international community keeps hope alive for the families of victims and others who wish to see respect for the right to life observed. Individual complaints also provide an additional source of information for Governments.

12. During the period under review the Special Rapporteur transmitted 116 urgent appeals to the Governments of the following countries: Argentina (2), Bolivia (4), Brazil (6), Burundi (1), Canada (1), China (4) Colombia (25), Democratic Republic of the Congo (1), Côte d'Ivoire (1), Cuba (1), Ecuador (1), Egypt (1), Gambia (1), Guatemala (4), Equatorial Guinea (1), Honduras (3), India (2), Indonesia (4), Iran (Islamic Republic of) (4), Israel (1), Jamaica (1), Jordan (1), Lebanon (1), Mexico (7), Nepal (1), Nicaragua (1), Myanmar (1), Oman (1), Pakistan (2), Peru (4), Philippines (1), Russian Federation (2), Sri Lanka (2), Tajikistan (1), United Arab Emirates (1), United States of America (11), Uzbekistan (5), Venezuela (2), Yemen (2) and Zimbabwe (1). She also sent one urgent appeal to the Palestinian Authority. Among the urgent appeals sent by the Special Rapporteur 43 were transmitted jointly with other mechanisms of the Commission on Human Rights, such as the Special Rapporteur on the question of torture, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on violence against women, the Special Rapporteur on the human rights of migrants, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative on the situation of human rights in the Islamic Republic of Iran, the Representative of the Secretary-General on internally displaced persons and the Representative of the Secretary-General on human rights defenders.

13. The urgent appeals transmitted concerned 339 individuals and the following groups of persons: people at risk owing to the wave of violence in the occupied territories, the Moluccas (Indonesia), Pahalgam, Anantnag and Pogal in Kashmir (India) and the Island of Jolo (Philippines); a large number of prisoners detained in the Islamic Republic of Iran; journalists and human rights workers from Mexican and Peruvian non-governmental organizations who had received death threats; indigenous communities in Brazil; Afghan journalists in Pakistan; the entire population of Grozny, Chechnya; opposition leaders in Zimbabwe; civilians in Jaffna (Sri Lanka) and in Côte d'Ivoire; a large number of prisoners in Equatorial Guinea; a large number of people sentenced to death in China, the United States of America, Uzbekistan and Yemen; human rights activists, lawyers, political leaders and trade unionists, peasants and indigenous leaders in Colombia.

14. In addition, the Special Rapporteur transmitted allegations regarding violations of the right to life of more than 700 individuals to the Governments of the following 37 countries: Algeria (1), Angola (1), Bangladesh (1), Bolivia (1), Burundi (3), China (8), Colombia (19), Congo (1), Côte d'Ivoire (3), Cuba (3), Democratic Republic of the Congo (3), Dominican Republic (1), Ethiopia (1), Guatemala (3), Honduras (1), India (9), Indonesia (2), Israel (8), Jamaica (1), Jordan (1), Kenya (1), Mexico (3), Myanmar (12), Namibia (1),

Nepal (3), Nigeria (1), Pakistan (3), Peru (1), Russian Federation (9), Rwanda (2), Spain (1), Sri Lanka (6), Sudan (2), Tunisia (2), Turkey (1), Uzbekistan (2) and Venezuela (1). Allegations were also transmitted to the Palestinian Authority.

15. The Governments of the following countries transmitted replies to urgent appeals or communications addressed to them by the Special Rapporteur during the period under review: Albania, Algeria, Angola, Argentina, Austria, Bahrein, Brazil, Bolivia, Cameroon, Canada, Chile, China, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Israel, Jamaica, Kenya, Mexico, Nicaragua, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Spain, Sri Lanka, Sudan, Tajikistan, Turkey, United Arab Emirates, United States of America, Uzbekistan, Venezuela, Yemen, Zambia and Zimbabwe. In follow-up to replies received from Governments, the Special Rapporteur sent communications to the Governments of Colombia and Mexico. The Special Rapporteur wishes to take this opportunity to thank those Governments which have provided comprehensive replies to her communications for their cooperation.

16. The Special Rapporteur regrets that some Governments have replied only in part or on an irregular basis to her inquiries. She is further concerned that the Governments of Bangladesh, Botswana, Bosnia and Herzegovina, Burkina Faso, Burundi, Ecuador, El Salvador, Guinea-Bissau, Haiti, Rwanda, Sierra Leone, South Africa, Thailand, Trinidad and Tobago and Uganda did not reply to any of her communications and requests for information transmitted in the last two years. Neither the Taliban Council nor the Palestinian Authority have replied to communications in the last two years.

17. The Special Rapporteur regrets that the Governments of Cambodia and Papua New Guinea have not replied to any of the communications transmitted by the Special Rapporteur in the past four years. The Governments of Rwanda and Romania have not replied to communications in the last three years.

C. Visits

18. At the invitation of the Government, the Special Rapporteur visited the Kingdom of Nepal from 5 to 14 February 2000. The visit was mainly prompted by continuing reports of alleged extrajudicial killings of unarmed civilians in the context of the confrontation between armed groups of the Communist Party of Nepal (CPN Maoist) and the Nepalese police. Concerns had also been expressed that the situation had the potential to deteriorate, leading to more violence and loss of life. The Special Rapporteur's observations during this mission can be found in addendum 2 to the present report.

19. During its special session on the situation in Israel and the occupied territories held from 17 to 19 October 2000, the Commission on Human Rights adopted resolution S-5/1 in which it requested the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on religious intolerance, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on adequate housing and the Working Group on Enforced or

Involuntary Disappearances to carry out immediate missions to the area concerned and report on their findings to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session. The Special Rapporteur has written to the Government of Israel requesting an invitation to visit the country.

20. In this connection, the Special Rapporteur further wishes to recall Commission resolution 2000/58 entitled "Situation in the Republic of Chechnya in the Russian Federation", in which the commission requested several of the thematic mechanisms, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, to conduct missions to Chechnya. The Special Rapporteur had already requested an invitation to visit Chechnya in March 2000, before the adoption of the resolution. At the time of writing the Government of the Russian Federation had not responded to this request.

21. Since her appointment, the Special Rapporteur has written to a number of Governments expressing her interest in visiting their countries. At the time of writing, the Governments of Turkey, Colombia, Honduras and the Federal Republic of Yugoslavia had responded positively to these communications, and the Special Rapporteur looks forward to carrying out missions to those countries in the near future. The Special Rapporteur has requests pending with the Governments of Algeria, Bahrain, India, Israel, Côte d'Ivoire, Pakistan, the Russian Federation, Sierra Leone and Uganda. On 6 October 2000, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on freedom of opinion and expression wrote to the Governments of India and Pakistan requesting an invitation to conduct a joint mission to those countries. In late November 2000, the Special Rapporteur requested a visit to Côte d'Ivoire, following reports of serious human rights violations there. Subsequently, the Secretary-General appointed an international commission of inquiry to shed light on the serious human rights violations that took place in Côte d'Ivoire in October 2000. The Special Rapporteur will therefore await the report of the commission of inquiry.

22. Field missions are particularly important in the discharge of the mandate, as they allow the Special Rapporteur to gather first-hand information for preparing well-documented and objective reports. A closer study of specific countries enables her to identify common patterns and thereby address some root causes which give rise to and perpetuate violations of the right to life. Early symptoms can be identified with greater confidence and addressed at the initial stages which could prevent further violations of human rights.

III. OVERVIEW OF SITUATIONS INVOLVING VIOLATIONS OF THE RIGHT TO LIFE

A. Genocide

23. In her reports to the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights, the Special Rapporteur noted with regret that the Secretary General's Investigative Team charged with investigating violations of human rights and international law in the Democratic Republic of the Congo had been unable to complete its work owing to lack of cooperation on the part of the Government. In its report (S/1998/581, annex) the Team presented the preliminary

conclusion that "the systematic massacre of those [Rwandan Hutus] remaining in Zaire was an abhorrent crime against humanity, but the underlying rationale for the decisions is material to whether these killings constituted genocide".

24. During its fifty-fifth session the Commission on Human Rights adopted resolution 1999/56 entitled "Situation of human rights in the Democratic Republic of the Congo", in which it requested the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permit and, where appropriate, a joint mission to investigate all massacres carried out in the country with a view to bringing those responsible to justice. The Special Rapporteur regrets that the situation on the ground has remained such that it has so far not been possible to carry out this mission.

25. Too much blood has been shed with impunity. The international community must no longer tolerate impunity for serious violations of human rights and international humanitarian law. There ought to be no selectivity as far as impunity is concerned. In this regard the Special Rapporteur considers the adoption of the Rome Statute of the International Criminal Court to be an important milestone. Under its statute, the Court is also to have jurisdiction over crimes against humanity, such as extermination, which includes "the intentional infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population". The Special Rapporteur encourages the International Criminal Tribunals for Rwanda and the former Yugoslavia to continue their important work to investigate and prosecute persons suspected of gross human rights violations, including the crime of genocide.

B. Deaths due to excessive use of force by law enforcement officials

26. The Special Rapporteur transmitted allegations regarding violations of the right to life of 237 persons, of whom 135 were identified, to the Governments of the following countries: Angola (1), Bolivia(1), Colombia (1), Côte d'Ivoire (3), Cuba (2), Democratic Republic of the Congo (2), Dominican Republic (1), Ethiopia (1), Guatemala (1), Honduras (1), India (5), Indonesia (2), Israel (7), Jamaica (1), Jordan (1), Nepal (4), Nigeria (1), Pakistan (1), Rwanda (2), Sri Lanka (2), Sudan (2) and Venezuela (1). In this context, she also sent urgent appeals to the Gambia and Israel.

27. The violence in the territories occupied by Israel is cause for gravest concern. On 3 October 2000, the Special Rapporteur sent an urgent appeal urging the Government of Israel to ensure that government security forces are immediately ordered to act with restraint and to respect international human rights standards when carrying out their duties. In her letter, which was also issued as a public statement, the Special Rapporteur strongly urged the Government to investigate all incidents of alleged killings by government forces without delay and to ensure that persons responsible for such crimes are brought to justice. At the time of writing of this report, at least 200 people, mostly Palestinians, had lost their lives as a result of the violence in the occupied territories. The Special Rapporteur is deeply disturbed by reports indicating that one fourth of the victims were children and youths.

28. The Special Rapporteur was moved by the report of the United Nations High Commissioner for Human Rights on her mission to the occupied territories in which she stated that "the situation in the occupied Palestinian territories is bleak. The civilian population feels besieged by a stronger power prepared to use its superior force against demonstrations and stone-throwing by adolescents. During the course of the visit the violence escalated with more shooting - including so-called drive-by shootings - on the Palestinian side and use of rockets and heavy machine-gun fire on the Israeli side (E/CN.4/2001/114, para. 19)".

29. The Special Rapporteur is deeply concerned at the abuse of force by the both the Indonesian police and army while performing law enforcement duties in various locations including Irian Jaya and Aceh. During the period under review, the Special Rapporteur appealed to the Government of Indonesia, expressing her concern over the escalating violence in those areas and urging the authorities to ensure that government forces carry out their duties in strict compliance with international human rights standards.

C. Deaths in custody

30. The Special Rapporteur transmitted allegations of the death in custody of 38 persons to the Governments of the following countries: Bangladesh (1), China (8), Congo (1), Cuba (1), India (2), Israel (1), Kenya (1), Mexico (1), Myanmar (1), Namibia (1), Nepal (1), Pakistan (2), Peru (1), Spain (1), Sri Lanka (2), Tunisia (2), Turkey (1) and Uzbekistan (1). The Special Rapporteur also transmitted one allegation to the Palestinian Authority. One urgent appeal was sent to the Government of Bolivia.

31. In this context, the Special Rapporteur wishes to express her particular concern over reports from China describing a large number of cases in which detainees, many of whom were followers of the Falun Gong movement, had died as a result of severe ill-treatment, neglect or lack of medical attention.

D. Death threats

32. The Special Rapporteur transmitted urgent appeals aimed at preventing loss of life after having received reports of situations where the lives and physical integrity of persons were feared to be in danger. In this context urgent appeals were sent to the Governments of the following countries: Argentina (2), Brazil (5), Colombia (25), Guatemala (4), Honduras (2), India (1), Indonesia (1), Jamaica (1), Mexico (4), Myanmar (1), Nicaragua (1), Pakistan (1), Peru (4), Sri Lanka (1) and Venezuela (2).

33. These urgent appeals concerned at least 53 identified persons and groups such as the peasants in Colombia, human rights activists in Brazil, witnesses in Guatemala and Nicaragua, journalists in Honduras and Mexico and human rights groups.

E. Expulsion, refoulement or return of persons to a country or place where their lives are in danger

34. The Special Rapporteur transmitted a joint urgent appeal with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on violence against women to the

Government of Canada concerning a Pakistani woman who had applied for refugee status in Canada and was at risk of being deported. According to the information received, the woman had allegedly been confined and severely ill-treated by her brother after her mother was killed by her father for not conforming to the traditional practices of her family. In its reply to the Special Rapporteur's letter, the Government stated that the case was going to be heard by the Immigration and Refugee Board and that the woman was not in danger of being returned to Pakistan.

F. Deaths due to acts of omission

35. The Special Rapporteur also intervenes in cases where the authorities are reported to have failed to take effective or meaningful action to prevent extrajudicial killings from taking place. It is reported that on 25 October 2000, at least 26 young Tamil men aged between 14 and 23 being held at a camp after they had been arrested on suspicion of membership of the Liberation Tigers of Tamil Eelam or who had surrendered, died as a result of an attack by a mob of hundreds of people from nearby villages. It was alleged that police officers deployed at the camp did not intervene to protect the detainees. There were further allegations that some of the police may have been involved in inciting the villagers, or may have assisted them in entering the camp. The Special Rapporteur brought these concerns to the attention of the Government of Sri Lanka in a letter dated 31 October 2000. In its reply the Government stated that the relevant law enforcement authorities and the Human Rights Commission of Sri Lanka had undertaken immediate investigations into the incident, and that the authorities were taking action against those identified in the preliminary investigations.

36. In this connection, the Special Rapporteur also wishes to express her deep concern over the situation in various parts of Indonesia, including West Timor and Aceh, where government forces are reported to have failed to intervene to protect civilians from violence and killings by militia groups. A case in point was the brutal killing by militia elements of three staff members of the Office of the United Nations High Commissioner for Refugees in Atambua, West Timor, on 6 September 2000. Reports indicate that the police and military deployed in Atambua did not take action to protect the humanitarian workers when they were attacked. There are also disturbing reports suggesting that in some instances Indonesian soldiers have actively taken part in or supported actions by pro-Government militias. On 11 September 2000, the Special Rapporteur sent a letter to the Government of Indonesia requesting information regarding the steps taken to investigate the incident and to bring those responsible to justice. The deteriorating situation in Indonesia is in some ways directly connected to the failure of the Government to bring members of its security forces to justice after the flagrant violations of the right to life in some parts of the country, particularly East Timor.

G. Capital punishment

37. In its resolution 2000/31, the Commission on Human Rights requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Protocol thereto. In this context, the Special Rapporteur transmitted 32 urgent appeals on behalf of 44 identified

individuals as well as on behalf of groups of unidentified persons to the Governments of the following countries: Burundi (1), China (4), Cuba (1), Democratic Republic of the Congo (1), Egypt (1), Iran (Islamic Republic of) (4) , Oman (1), Tajikistan (1), United Arab Emirates (1), United States of America (11), Uzbekistan (5), and Yemen (2). She also sent one urgent appeal to the Palestinian Authority. For a more detailed discussion of this issue, reference is made to section V.F of the present report.

IV. VIOLATIONS OF THE RIGHT TO LIFE OF SPECIAL GROUPS

A. Violations of the right to life of women

38. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of women whose lives were believed to be at risk to the Governments of Canada (1), Nepal (1), the Russian Federation (1), the United Arab Emirates (1), the United States of America (1) and Venezuela (2). In addition, the Special Rapporteur transmitted allegations of 55 cases of violations of the right to life of women to the Governments of the following countries: Burundi (2), China (2), Colombia (4), Democratic Republic of the Congo (12), Guatemala (1), India (1), Israel (1), Myanmar (5), Nepal (3), Russian Federation (13), Rwanda (1), Sri Lanka (1) and Sudan (9). She also sent allegations to Burundi regarding the extrajudicial killing of a group of 43 persons, including a large number of women, by government security forces in Kabezi on 31 December 1999.

39. It may be noted that the figures presented above do not necessarily represent the total number of women on whose behalf the Special Rapporteur has taken action, as they only reflect those cases in which it was specifically indicated that the victim was female. The Special Rapporteur is particularly alarmed by reports from the Democratic Republic of the Congo according to which 12 women were buried alive by government soldiers. It is alleged that the women were accused of witchcraft.

40. In this connection, the Special Rapporteur also wishes to note the case of Ms. Betty Lou Beets who was sentenced to death for the murder of her husband in the State of Texas, United States of America. In February 2000, the Special Rapporteur wrote to the Government of the United States referring to reports that in her trial crucial mitigating evidence was never presented to the jury, including her history of severe physical, sexual and emotional abuse from early age. According to reports she had been raped at age five, and then brutally beaten and sexually abused by a succession of husbands. Ms. Beets was executed on 24 February 2000. It has been brought to the Special Rapporteur's attention that Ms. Beets was the second woman to be executed in Texas in a century and only the fourth woman executed nationwide since the reinstatement of the death penalty in 1976.

41. The Special Rapporteur has further received a considerable amount of information regarding traditional practices, particularly so-called "honour killings", targeting women. It is the right of every individual to enjoy the rights to life, liberty and security. Governments are obliged to protect these rights by law and to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which are in violation of the human rights of women. The Special Rapporteur continues to work closely with the Special Rapporteur on violence against women and the Special Rapporteur on the independence

of judges and lawyers to monitor incidents of killings of women in the name of honour. The Special Rapporteur does not take up all cases of such killings, but has limited herself to act where the State either approves of or supports these acts, or extends impunity to the perpetrators by giving tacit support to the practice. She notes that some Governments have indicated their disapproval of the practice of "honour killings" and some others have publicly condemned the practice. In her last report to the Commission (E/CN.4/2000/3), the Special Rapporteur noted that a number of renowned Islamic leaders and scholars have publicly condemned this practice. More recently, a constitutional body in Pakistan, the Council of Islamic Ideology, has categorically stated that such killings are not in conformity with Islamic injunctions. However, there remains a huge gap between words and action. In this connection, she notes that the General Assembly at its fifty-fifth session adopted resolution 55/66 entitled "Elimination of crimes against women committed in the name of honour".

B. Violations of the right to life concerning refugees and internally displaced persons

42. The Special Rapporteur is deeply disturbed by reports of deliberate attacks against refugees and internally displaced persons (IDPs). Such incidents have been particularly common in situations of internal conflict and unrest, where the direct targeting of civilians has increasingly become part of the tactics employed by the parties involved. During the period under review, the Special Rapporteur sent urgent appeals to the Governments of Colombia (5), Sri Lanka (1) and Yemen (1).

43. The Special Rapporteur is particularly concerned about the situation in Colombia, which has one of the largest IDP populations in the world: some estimates put the total number at 1.4 million. These people continue to be subjected to armed attacks and extrajudicial killings by the parties to the ongoing internal conflict, and the Special Rapporteur has on several occasions intervened with the Government on their behalf. Reports indicate that more than 300,000 Colombians have been displaced in the past year because of the escalating conflict. The Special Rapporteur is also deeply concerned about the situation of the more than 100,000 East Timorese refugees who reportedly continue to suffer violent attacks and human rights abuses by militia elements in West Timor.

44. In this connection, the Special Rapporteur wishes to recall the Guiding Principles on Internal Displacement, which set out the rights and guarantees relevant to the protection of internally displaced persons in all phases of displacement. Under principles 10 (2) and 11 (2) internally displaced persons shall be protected against attacks against their settlements or camps and acts of violence intended to spread terror.

C. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities

45. The Special Rapporteur acted on behalf of a variety of persons considered to belong to national, ethnic, religious and/or linguistic minorities in their respective countries. Urgent actions were sent to Brazil (1), China (4), Colombia (1), India (1), Indonesia (1) and Pakistan (1). In addition, the Special Rapporteur sent allegations of violations of the right to life to the Government of the Democratic Republic of the Congo. A cause for concern is the situation of

the Uighur community in China, which reportedly continues to be exposed to grave human rights abuses at the hands of the Chinese authorities. The Special Rapporteur is also concerned that members of indigenous communities in a number of Latin American countries continue to be exposed to violence and attacks, including extrajudicial killings. The Special Rapporteur sent an urgent appeal to the Government of Brazil expressing her concern over the safety of members of the Macuxi and Wapixana communities, as well as persons working directly with them. She also wrote to the Government of Colombia, following reports that police officers had forcibly evicted members of the U'wa community in Cedeno and La China, in the municipalities of Cubara and Toledo, north of Santander. Reports indicated that three minors had lost their lives as a result of this operation. It was further alleged that 11 adults and 4 children between 5 and 10 years of age had disappeared in connection with the incident.

D. Violations of the right to life of persons exercising their right to freedom of opinion and expression

46. The Special Rapporteur is concerned that journalists are increasingly becoming the targets of death threats and extrajudicial killings because of their work to uncover corruption, organized crime and human rights violations. During the period under review, the Special Rapporteur sent urgent appeals in relation to threats against persons exercising their right to freedom of expression, mostly journalists and participants in demonstrations, in the following countries: Bolivia (2), Colombia (2), Guatemala (1), Honduras (1), Indonesia (1), Iran (Islamic Republic of) (2), Mexico (3), Nicaragua (1), Myanmar (1), Pakistan (1), Peru (1), Russian Federation (1) and Sri Lanka (1). The Special Rapporteur further sent allegations regarding violations of the right to life of persons exercising their right to freedom of expression in two cases in the following countries: Guatemala (1) and Jordan (1).

E. The right to life and the administration of justice

47. The Special Rapporteur took action on behalf of six individuals involved in or related to the administration of justice. Urgent appeals were sent to the following countries: Argentina (2), Colombia (1), Guatemala (1) and Jamaica (1). The Special Rapporteur further sent one joint appeal with the Special Rapporteur on the independence of lawyers and judges to the Government of Argentina concerning two lawyers who had received death threats apparently because of their work regarding one case of disappearance and two cases of murder. Another joint urgent action was sent to the Government of Colombia regarding death threats against a lawyer whose name had reportedly figured on a list of suspected "guerrilla sympathizers" circulated in Bogotá by a paramilitary group.

F. Violations of the right to life of members of sexual minorities

48. The Special Rapporteur has continued to receive serious reports of persons having been subjected to death threats or extrajudicially killed because of their sexual orientation. On 19 June 2000, the Special Rapporteur sent an urgent appeal to the Government of Brazil following reports that Eduardo Bernardes da Silva, a staff member at Amnesty International's office in São Paolo, had received death threats in relation to his work in defence of gay and lesbian groups in Brazil. It was reported that in reaction to these threats Amnesty International had decided to temporarily close its São Paolo office and move Mr. da Silva to another state.

During the period under review, there have also been increasing reports of death threats, letter bombs and violent attacks against members of sexual minorities attributed to neo-Nazi groups in Brazil.

49. It has been reported that on 19 November 2000, a transvestite known as "Walter" was shot dead in San Salvador. The shots were reportedly fired by unknown men from a car which left the scene at high speed. It is alleged that the authorities have not taken effective action to investigate the case and to bring those responsible to justice. Non-governmental sources say that 7 similar killings were reported in El Salvador in 1999 and 12 in 1998. On 4 December 2000, the Special Rapporteur sent an urgent appeal urging the Government of El Salvador to investigate the killings and to take the necessary steps to protect members of sexual minorities from violence and extrajudicial killings.

50. The Special Rapporteur finds it unacceptable that in some States homosexual relationships are still punishable by death. It must be recalled that under article 6 of the International Covenant on Civil and Political Rights death sentences may only be imposed for the most serious crimes, a stipulation which clearly excludes matters of sexual orientation. In this context, the Special Rapporteur wishes to reiterate her belief that the continuing prejudice against members of sexual minorities and especially the criminalization of matters of sexual orientation increase the social stigmatization of these persons. This in turn makes them more vulnerable to violence and human rights abuses, including death threats and violations of the right to life, which are often committed in a climate of impunity. The Special Rapporteur further notes that the often tendentious media coverage of this subject further contributes to creating an atmosphere of impunity and indifference about crimes committed against members of sexual minorities.

V. AREAS OF SPECIAL FOCUS

A. Violations of the right to life during armed conflict

51. The Special Rapporteur has continued to receive alarming reports of civilians and persons hors de combat killed in situations of armed conflict and internal strife in various regions of the world. In the last year many thousands of unarmed civilians, including many women and children, have lost their lives in conflict situations. The Special Rapporteur has continued to follow the situation in Chechnya, where Russian government forces are reported to be committing grave human rights violations, including deliberate and targeted extrajudicial executions of unarmed civilians. In December 1999, the Special Rapporteur sent a joint urgent appeal to the Government of the Russian Federation, expressing her deep concern over the safety of the speaker of the Chechen separatist "Republic of Incheria" Parliament. The Special Rapporteur also sent a joint urgent appeal concerning allegations received of massive human rights violations occurring in Chechnya. In this context the Special Rapporteur transmitted nine allegations of violation of the right to life of more than 68 people. Among them were at least 13 women and an unknown number of minors. The Special Rapporteur is alarmed by reports of extensive civilian casualties and fatalities as a result of widespread and indiscriminate bombing and shelling by government forces of civilian settlements and urban centres.

52. The Special Rapporteur also sent several communications to the Government of Sri Lanka regarding civilians allegedly killed in air strikes and other operations by the Sri Lankan armed forces. During the present reporting period, the Special Rapporteur transmitted 132 cases of alleged killings of civilians by the army of Burundi. The Special Rapporteur has been informed that in July 2000, the Sudanese armed forces resumed aerial bombardments in the south of the country, and that a large number of civilians have been killed or injured as a result of these indiscriminate attacks. In addition to fatalities, these bombings have reportedly also caused considerable material damage and seriously disrupted desperately needed humanitarian aid in the region.

53. The Special Rapporteur continues to receive an increasing number of reports of violence and extrajudicial killings attributed to armed opposition groups, militia elements and other non-State actors. It should be noted that the Special Rapporteur's mandate only allows her to intervene when the perpetrators are believed to be government agents or have a direct or indirect link with the State. However, the Special Rapporteur wishes to express her deep concern over atrocities committed by non-State actors, which constitute serious violations of basic humanitarian and human rights principles. There must be no impunity for such crimes, and the perpetrators should be prosecuted and tried in accordance with international standards. She further notes with regret that in some countries Governments have made use of excessive and indiscriminate force in their efforts to counter armed opposition groups, which in some cases has involved summary executions of captured combatants and resulted in extensive civilian casualties and fatalities. The Special Rapporteur wishes to emphasize that the right to life allows for no derogations, not even in time of public emergency which threatens the life of the nation.

B. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

54. A cause for deepening concern for the Special Rapporteur is the increasing incidence of large-scale extrajudicial killings carried out by government security forces and armed groups reported to be sponsored, supported or tolerated by Governments. During the period under review, the Special Rapporteur transmitted allegations on behalf of 288 individuals killed by security forces, paramilitary groups or private forces to the Governments of Algeria (1), Burundi (3), Colombia (18), the Democratic Republic of the Congo (1), Guatemala (2), India (1), Indonesia (2), Mexico (3), Myanmar (11) and Sri Lanka (2). In addition, she sent urgent appeals to the following Governments: Colombia, Indonesia, India, Pakistan, Sri Lanka and Zimbabwe.

55. It is alarming that in some countries the unofficial use of irregular forces appears to have become part of government policy and counterinsurgency campaigns. These groups are usually supported or directed by the military or civilian intelligence services, which further obscures the transparency of their operations and often results in impunity for the perpetrators of grave human rights abuses. The Special Rapporteur is deeply concerned over the continuing violence which has resulted in a growing number of extrajudicial killings in Colombia. The information received indicates that most of these atrocities have been perpetrated by paramilitary groups, which allegedly operate with the support of government forces. It is a cause for great concern that the civilian population, including the large IDP population, appear to have been deliberately targeted in the ongoing conflict.

C. Impunity, compensation and the rights of victims

56. Firm measures to bring an end to impunity are fundamental to all sustainable and effective strategies for human rights protection and promotion. Impunity for human rights offenders seriously undermines the rule of law, and also widens the gap between those close to the power structures and others who are vulnerable to human rights abuses. In this way, human rights violations are perpetuated or sometimes even encouraged, as perpetrators feel that they are free to act in a climate of impunity. As has been discussed earlier in this report, extrajudicial killings and acts of murder may sometimes also go unpunished because of the sex, religious belief, or ethnicity of the victim. Long-standing discrimination and prejudice against such groups are often used as justification of these crimes. The increasing difficulties in securing justice alienate the people from the State and may drive them to take the law into their own hands, resulting in a further erosion of the justice system and a vicious circle of violence and retaliation. If unaddressed, such situations may easily degenerate into a state of anarchy and social disintegration. Human rights protection and respect for the rule of law are central to lasting peace and stability. It is, therefore, crucial that conflict prevention strategies and post-conflict peace-building efforts include effective measures to end the culture of impunity and protect the rule of law.

57. During the period under review, the Special Rapporteur has on numerous occasions approached the Government of Colombia, expressing her concern over the deeply entrenched culture of impunity in the country. She is also alarmed by the extrajudicial killings and other grave human rights violations Myanmar government forces continue to commit with apparent impunity. With regard to the situation in Indonesia, the Special Rapporteur has in her earlier reports and in her communications to the Government raised the widespread impunity with which militia elements and Indonesian army soldiers have allegedly committed grave human rights abuses, including extrajudicial executions, in various parts of the country, including East and West Timor, Aceh and the Maluku islands. In this connection, she wishes to express her concern that Eurico Gutteres, a well-known militia leader from East Timor, was reportedly released by an Indonesian court after having been indicted on charges of illegal possession of firearms. Mr. Gutteres is believed to be one of the masterminds behind the atrocities committed by militia elements in East Timor in 1999. Several eyewitnesses the Special Rapporteur spoke to during her mission to East Timor in November 1999 identified Mr. Gutteres as having personally ordered some of the worst atrocities that occurred on the island.

58. In its general comment on article 6 of the International Covenant on Civil and Political Rights, the Human Rights Committee has reaffirmed that States are obliged to investigate all human rights violations, particularly those affecting the physical integrity of the victim, to bring to justice those responsible for such abuses, to pay adequate compensation to the victims or their families and to prevent the recurrence of such violations. This obligation is reaffirmed in other important international human rights instruments. The duty to prevent extrajudicial, summary or arbitrary executions is clearly set forth in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In this connection, the Special Rapporteur also wishes to refer to the report (E/CN.4/Sub.2/1997/20/Rev.1) prepared by Mr. Louis Joinet pursuant to decision 1996/119 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the question of impunity of perpetrators of

human rights violations (civil and political). The report presents a set of principles regarding the rights of victims and the obligations of States to investigate violations and prosecute the perpetrators.

59. It is clear that measures aimed at preventing extrajudicial executions, such as legal reform, strict application of the rules of engagement, human rights training and chain-of-command control, can only be effective and indeed meaningful if coupled with strong mechanisms for investigation and prosecution of grave human rights violations by State agents. In the interest of credibility, impartiality and independence, investigations into extrajudicial executions attributed to the police or army should not be entrusted to the law enforcement or military authorities themselves. Every alleged killing by the police must be promptly and thoroughly investigated by an independent body with the authority and resources to carry out this task in an effective and credible way.

60. In this connection, the Special Rapporteur wishes again to draw attention to the standards pertaining to the investigation of extrajudicial executions contained in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Paragraph 11 of the Principles refers to investigations into "cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons". In these cases, "Governments shall pursue investigations through an independent commission of inquiry or similar procedure". The same paragraph also gives guidelines regarding the composition and mandate of such commissions.

61. The Special Rapporteur notes that the most systematic and alarming situations of impunity occur in countries where court decisions are flatly overruled and ignored by the executive authorities. In these countries courts have often become mere pawns in the hands of Governments, which condone, support or commit human rights abuses as a matter of policy. In some cases impunity for human rights violations may also be the result of lack of governance, when a weak and under-resourced judiciary is incapable of working in an independent manner. There are serious deficiencies in the investigative methods of a number of countries. The investigating authorities lack capacity and forensic support. Institutional support and technical assistance may in part help to address this problem, but these efforts can only be successful if they are accompanied by strong mechanisms to ensure that the independence of the judiciary is supported by an efficient legal system. Methods of investigation have to be upgraded and the police equipped with forensic tools and expertise. These initiatives must also be backed by genuine political will to bring these abuses to an end.

62. Impunity for human rights abuses may in some instances also result from laws or other regulations explicitly exempting public officials or certain categories of State agents from accountability or prosecution. Such measures are often resorted to in countries facing internal unrest, and where the security forces are given wide-ranging powers in order to counter a real or perceived threat to national security. In cases when members of security forces are prosecuted, they are usually tried in military courts, which often fall short of international standards regarding the impartiality, independence and competence of the judiciary.

63. Amnesty laws passed after periods of internal conflict or repression should under no circumstances grant immunity from prosecution to persons responsible for grave human rights violations, regardless of their past or present status or position. At the same time, in order to be effective and meaningful in fostering accountability among State officials and rulers, measures taken to prosecute human rights offenders cannot be selective or used as an instrument of revenge, but must be part of broader policies aimed at promoting peace, social stability, justice and the rule of law. As a recognition of the State's responsibility for acts carried out by its personnel, Governments have an obligation to provide adequate compensation to victims and the families of victims of serious human rights violations, including extrajudicial executions. It should be emphasized that granting compensation does not reduce the duty of the State to investigate and prosecute human rights violations.

64. Victims or the families of victims have the right to receive adequate compensation from the Government, as a recognition of the State's responsibility for acts carried out by its personnel. In this regard, attention is drawn to paragraph 20 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, under which the families and dependants of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time. In this connection, the Special Rapporteur wishes to emphasize that granting compensation to victims or their families does not in any way reduce the duty of the State to investigate and prosecute human rights violations. At the same time, the right of the victim to compensation is to be regarded as a matter of justice and not as an instrument or means of revenge.

D. Violations of the right to life of children

65. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of six minors to the Governments of Bolivia (1), Colombia (2), Honduras (1), Iran (Islamic Republic of) (1) and Venezuela (1). In this context, the Special Rapporteur took action with regard to two persons who were facing imminent execution in the United States of America after having been sentenced to death for crimes committed when they were under 18 years of age. For a more detailed discussion of this issue, reference is made to section F below. She further sent allegations of violations of the right to life of 67 minors to the Governments of the following countries: Bolivia (1), Colombia (4), Honduras (32), Israel (3), Myanmar (2), Nepal (4), Russian Federation (1), Rwanda (5) and Sudan (15). The Special Rapporteur further sent a letter to the Government of Burundi transmitting allegations of summary executions of a group of 43 persons, including a large number of children, by government soldiers in Kabezi on 31 December 1999.

1. State violence and impunity

66. The Special Rapporteur regrets that she was unable to attend the day of general discussion on State violence against children held by the Committee on the Rights of the Child in Geneva on 22 September 2000. She commends the Committee for taking this initiative and has closely studied the recommendations adopted by the Committee in follow-up to the discussion day. A number of key recommendations, primarily those dealing with criminal justice and detention procedures, have a direct link to the protection of the right to life of children and juveniles. In this regard, she takes particular note of the Committee's recommendations

regarding steps aimed at ensuring that all forms of violence against children are prohibited. She also welcomes the Committee recommendation that States review relevant legislation to ensure that children under the age of 18, who are in need of protection, are not considered as offenders but dealt with under child protection mechanisms. She strongly recommends that States parties study these recommendations and consider ways of implementing them as appropriate.

67. In recent months, the Special Rapporteur's attention has been drawn to reports of extrajudicial killings of children in Honduras, Guatemala, Costa Rica and Nicaragua. Many of these cases were reported in the context of so-called "social cleansing", where street children are murdered or disappeared with impunity. The majority of these acts are attributed to private vigilante groups or units of off-duty police and military. These killings are symptoms of deeply rooted and complex social, economic and political problems coupled with surging crime rates, which continue to plague the human rights situation in these countries. Many of these children have been orphaned by civil war or unrest and abused and rejected by disintegrated and poverty-stricken families. They need special attention for survival and do not deserve the inhuman and cruel treatment meted out to them in the presence of a Government.

68. However, it is clear that the apparent failure of the authorities to take prompt and effective action to investigate these crimes and bring the perpetrators to justice is the main factor perpetuating this vicious cycle of violence and impunity. Police reportedly systematically fail to report killings to the judicial authorities, and often characterize these cases as part of gang wars and organized crime. When investigations are initiated they allegedly often fall short of minimum requirements as regards forensic documentation and post-mortem examination. Adding to this climate of impunity is the lack of official condemnation and the often prejudiced attitude of the media, which often refer to these killings as "social cleansing operations" and portray the victims as "social undesirables". In order to find sustainable solutions to addressing the plight of street children, it is important that their situation is not considered as primarily a law enforcement or criminal justice issue. Policies and action are required to identify and address the underlying causes of this problem, which include a wide range of social and economic issues, in particular the marginalization and lack of opportunities available to the most disadvantaged segments of society.

69. The Special Rapporteur has received information alleging that more than 300 children and youths have been murdered in Honduras since 1998. It is reported that more than half of the victims were under the age of 18. There are concerns that the authorities have not taken prompt and effective action to prevent and investigate these killings. The Special Rapporteur has raised these concerns in communications to the Government of Honduras. She notes with appreciation that the Government has invited her to visit Honduras and looks forward to undertaking this mission in the first half of 2001. She will report separately on her findings to the Commission.

2. Children in armed conflict

70. Today more than 300,000 children under the age of 18 are serving in government forces or armed groups in various parts of the world. Some 120,000 children are reportedly engaged in armed activities in Africa alone. While there is no reliable information about the number of children used by rebel forces in the Democratic Republic of the Congo, it is reported that up to 20,000 minors are serving in the government forces. Reports indicate that the Revolutionary

United Front (RUF) in Sierra Leone has continued forcing children, including demobilized former child soldiers, to join its units and participate in combat activities. The Special Rapporteur has also received allegations that the Ethiopian army has in the course of the last year forcibly recruited thousands of young boys under the age of 18. The Government of Ethiopia has denied these claims. In Uganda, the Lord's Resistance Army (LRA) is reported still to be keeping thousands of abducted children in its ranks. A large number of the abducted boys are forcibly recruited as soldiers, while many of the girls are reportedly being sexually exploited by members of the LRA. More detailed information on this issue can be found in the report of the Secretary-General on the abduction of children from northern Uganda (E/CN.4/2000/69) submitted to the fifty-sixth session of the Commission on Human Rights pursuant to resolution 1999/43. Recent reports further indicate that the armed forces of Chad have forcibly recruited children, mostly members of the Zagava ethnic group, into its ranks. Most of this activity has been reported from locations close to the sub-prefecture of Iriba. The majority of these children are reportedly less than 13 years of age, and many of them have allegedly been sent to the front lines to carry out mine clearance operations. There are further reports that children are being used by government forces or armed groups in, inter alia, Myanmar, Afghanistan, Colombia, Angola, Somalia, Sri Lanka and Tajikistan.

71. In this connection, the Special Rapporteur welcomes the adoption by the General Assembly on 25 May 2000 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Protocol sets 18 as the minimum age for participation in armed conflict, for the compulsory recruitment to government armed forces and for any enlistment or use in armed conflict by armed groups. The Special Rapporteur notes, however, that the Protocol still allows for voluntary recruitment from the age of 16, under certain circumstances. She encourages States to ratify the Optional Protocol as a matter of priority.

72. As pointed out earlier in this report, an increasing number of civilians not taking part in hostilities, including many children, are being killed in armed conflicts. In this context, the Special Rapporteur notes with deep concern reports that at least one fourth of those killed as a result of the violence that has swept the territories occupied by Israel are children. It is further reported that on 7 June 2000 Rwandan army soldiers in Tshopo allegedly shot dead seven members of a family, including five children. The ongoing conflict in the Sudan continues to claim an increasing number of innocent victims. In a communication to the Government the Special Rapporteur transmitted allegations that on 8 February 2000, 15 civilians, including 14 children under the age of 18, were killed as a result of an air strike carried out by the Sudanese air force on a Catholic school in the Nuba mountains.

E. Violations of the right to life of persons carrying out peaceful activities in defence of human rights and freedoms and persons who have cooperated with representatives of United Nations human rights bodies

73. The Special Rapporteur has continued to receive reports of death threats or extrajudicial killings directed against human rights activists, lawyers, community workers, teachers, journalists and other persons engaged in activities aimed at promoting human rights or publicizing human rights violations. During the present reporting period, the Special Rapporteur transmitted urgent appeals on behalf of persons carrying out peaceful activities in defence of

human rights and fundamental freedoms, requesting the Governments concerned to take the necessary measures to protect these persons' right to life: Brazil (3), Colombia (7), Honduras (1), India (1), Indonesia (2), Mexico (4), Nicaragua (1), Myanmar (1) and Peru (3). In addition to urgent actions on behalf of individuals, the Special Rapporteur also sent appeals with regard to threats against human rights organizations and institutions. The Special Rapporteur transmitted allegations of violations of the right to life of 17 human rights defenders in the following countries: Colombia, Guatemala, Mexico and Indonesia.

74. The Special Rapporteur is alarmed by the situation in Colombia, where at least eight human rights defenders were killed and many more received death threats in the past year. There are also continuing reports of threats and violence directed against human rights activists in Aceh, Irian Jaya and the Maluku islands. It is further a cause for deepening concern that journalists are increasingly targeted for extrajudicial killing because of their work to expose human rights abuses or to uncover irregularities and corruption on the part of persons in positions of authority. Attacks and threats have continued to be reported from many Latin American countries. During the period under review, the Special Rapporteur sent urgent appeals on behalf of journalists to Guatemala and Peru.

75. The Special Rapporteur welcomes the appointment of the Special Representative of the Secretary-General on human rights defenders and looks forward to cooperating with her on issues of mutual interest. She notes that the Special Representative has a broad mandate which enables her to take action on a variety of issues pertaining to the situation of human rights defenders worldwide. This will constitute a welcome and useful complement to the Special Rapporteur's mandate which is limited to concerns relating to the right to life of persons engaged in the promotion and protection of human rights.

F. Capital punishment

76. The death penalty must under all circumstances be regarded as an extreme exception to the fundamental right to life, and must as such be applied in the most restrictive manner possible. It is also indispensable that all restrictions and fair trial standards pertaining to capital punishment contained in international human rights instruments are fully respected in proceedings relating to capital offences.

77. The Special Rapporteur takes action in cases of capital punishment in which there is reason to believe that international restrictions, which are analysed in the paragraphs below, are not respected. In such cases, the carrying out of a death sentence may constitute a form of summary or arbitrary execution. Therefore, the Special Rapporteur has based her assessment of cases brought to her attention on the need to ensure full respect of the right to a fair trial, including guarantees as regards the impartiality, independence and competence of the judiciary.

1. Restrictions on the use of the death penalty

78. Capital punishment for juvenile offenders is prohibited under international law, and the Special Rapporteur has on numerous occasions expressed her strong opposition to this practice. The Convention on the Rights of the Child, which has been ratified by all States except the United States of America and Somalia, clearly excludes the use of the death penalty for crimes

committed by persons under the age of 18. The growing international consensus that the death penalty should not be applied to children and juvenile offenders was further reaffirmed by resolution 2000/17 adopted on 17 August 2000 by the Sub-Commission on the Promotion and Protection of Human Rights. In the resolution the Sub-Commission condemned unequivocally the imposition of the death penalty on those aged under 18 at the time of the commission of the crime. It further requested the Commission on Human Rights to reaffirm its resolution 2000/65.

79. The Special Rapporteur is concerned over the situation in the United States where around 70 persons are currently under death sentence for crimes committed when they were under the age of 18. It is reported that 13 such juvenile offenders have been executed in the United States since 1990. According to information provided by the Government of the United States, in the last two years 10 persons have been sentenced to death and 6 executed for crimes committed when the accused were under the age of 18. During the present reporting period the Special Rapporteur took action on behalf of two juvenile offenders facing the death penalty in the United States. In August 2000, she sent an urgent appeal regarding the case of Alexander Edmund Williams who had been sentenced to death in the State of Georgia for a crime committed when he was 17 years of age. It was also reported that he was suffering from serious mental illness. In its reply to this communication, the Government of the United States informed the Special Rapporteur that the Georgia Supreme Court had issued an indefinite stay of Mr. Williams' execution on 22 August 2000, i.e. two days before his scheduled execution date. In June 2000, the Special Rapporteur sent an urgent appeal on behalf of Shaka Sankofa, also known as Gary Graham, who was scheduled to be executed on 22 June 2000 after having been sentenced to death for a crime committed when he was 17 years old. Mr. Sankofa was executed in the State of Texas as scheduled on 22 June.

80. The Special Rapporteur was deeply disturbed to learn about the fate of "Kasonga", a 14-year-old boy who had been forcibly recruited as a child soldier by the armed forces of the Democratic Republic of the Congo. He and four other soldiers had been found guilty of murder and sentenced to death. On 15 January 2000, "Kasonga" was reportedly executed together with the four men within 30 minutes after a summary trial by a military tribunal. After having been informed of the execution, the Special Rapporteur wrote to the Government of the Democratic Republic of the Congo, demanding that the authorities launch a full investigation into the case. In this connection, the Special Rapporteur further wishes to note that in January 2000, the Minister for Human Rights of the Democratic Republic of the Congo reportedly declared that the country had imposed a moratorium on executions. The Special Rapporteur has also received reports suggesting that in October 1999, two youngsters 17 and 18 years old were hanged in the city of Rasht after they were found guilty of murder. In the period under review, executions of children under the age of 18 at the time of the crime are reported to have occurred in the Democratic Republic of the Congo, Afghanistan, the Islamic Republic of Iran and the United States of America.

81. In her last report to the Commission on Human Rights (E/CN.4/2000/3), the Special Rapporteur noted that since 1990, six countries were reported to have executed persons who were under the age of 18 at the time of the crime: the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, Yemen and the United States of America. After the publication of that report, the Special Rapporteur wrote to those Governments requesting information about their current laws and practice in regard to the use of the death penalty for juvenile offenders. At the

time of writing the Governments of Yemen and the United States of America had replied to this request. In its reply the Government Yemen stated that it was in the process of enacting a law that would set the age-limit for juveniles at 18 and which would prohibit the death sentences being imposed on juveniles. The Special Rapporteur urges the Government of Yemen to carry out this reform without delay. In its reply to the Special Rapporteur's letter the Government of the United States referred to the questionnaire regarding the use of the death penalty sent in July 1999, discussed in further detail below. The Special Rapporteur wishes to take this opportunity to thank these Governments for their replies. In this context, she further wishes to note with appreciation that the Government of Pakistan has abolished the death penalty for children.

82. In resolution 1989/64 the Economic and Social Council recommended that States strengthen the protection of the rights of those facing the death penalty by, inter alia, eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence. Moreover, the Safeguards guaranteeing protection of the rights of those facing the death penalty (Council resolution 1984/50) stipulate that the death penalty shall not be carried out on persons who have become insane. The Special Rapporteur strongly supports these recommendations and urges States to take action to reflect these restrictions in domestic law. She is further of the opinion that at times old age can also bring infirmity which may impact on a person's mental and physical competence. During the period under review, the Special Rapporteur sent urgent appeals on behalf of four persons who were facing execution in the United States after having been sentenced to death despite indications that they were suffering from mental illness or disability. In this regard, the Special Rapporteur takes note of the case of Thomas Provenzano who was sentenced to death for murder in the State of Florida in 1984. In her appeal to the Government of the United States, the Special Rapporteur referred to reports that Mr. Provenzano had been diagnosed with paranoid personality disorder and paranoid schizophrenia before his trial. It had further been reported that his mental condition had deteriorated during his 15 years on death row. Mr. Provenzano was executed on 21 June 2000.

83. In a number of countries the death penalty is imposed for crimes which do not fall within the category of "the most serious crimes" as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights. Paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur is strongly of the opinion that these restrictions exclude the possibility of imposing death sentences for economic and other so-called victimless offences, actions relating to prevailing moral values, or activities of a religious or political nature - including acts of treason, espionage or other vaguely defined acts usually described as "crimes against the State". The Special Rapporteur is concerned at the imposition of a mandatory death penalty for crimes which do not constitute "most serious crimes" or where fair trial standards were not respected. In many cases, the mental or physical state of the offender is not taken into consideration, nor are expectant mothers excluded from receiving such a sentence. Some laws calling for a mandatory death penalty are also vague.

84. Another cause for concern is the manner in which death sentences are carried out. Public hangings and other inhuman forms of execution continue to be practised in many countries. In this connection, the Special Rapporteur wishes to refer to paragraph 9 of the Safeguards

guaranteeing protection of the rights of those facing the death penalty, which stipulates that "[w]here capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering".

85. In July 1999, the Special Rapporteur sent a questionnaire to all States which still retain the death penalty either in law or in practice. In the questionnaire the Governments approached were requested to give information on the following issues: (a) provisions for a mandatory death penalty in domestic law; (b) provisions allowing for the use of the death penalty for persons under the age of 18; (c) the number of executions of persons under the age of 18 in the last two years, or for crimes committed by persons under that age, as well as a brief description of those cases; (d) a description of the crimes for which the death penalty applies under national law. During the period under review, the following Governments responded to the questionnaire: Cameroon, Myanmar, Oman and the United States of America. She notes that the following Governments had already sent their replies to the questionnaire: Antigua and Barbuda, Armenia, Barbados, Belarus, Egypt, Japan, Libyan Arab Jamahiriya, Lithuania, Malaysia, Rwanda, Sudan, Syrian Arab Republic, Trinidad and Tobago, Ukraine and the United Arab Emirates.

2. Fair trial

86. As the execution of a death sentence is irrevocable, it is imperative that legal proceedings in relation to capital offences conform to the highest standards of impartiality, competence, objectivity and independence of the judiciary, in accordance with the pertinent international legal instruments. Defendants facing the imposition of capital punishment must fully benefit from the right to adequate legal counsel at every stage of the proceedings, and should be presumed innocent until their guilt has been proved beyond a reasonable doubt. These safeguards must be implemented in all cases without exception or discrimination.

87. The Special Rapporteur is concerned that in many instances legal proceedings in relation to capital offences do not conform to the highest standards of impartiality, competence, objectivity and independence of the judiciary, in accordance with the pertinent international legal instruments. In this regard, she wishes to compliment Governor George Ryan of Illinois, United States of America, for his moral courage in deciding in January 2000 to impose a moratorium on executions in the State of Illinois, upon disclosure of possible flaws in the trial system. Reports indicate that since 1973, at least 87 persons were released from prisons in the United States, it having been acknowledged that they were innocent of the crimes for which they had been sentenced to death. The Special Rapporteur further wishes to take note of a survey of the federal capital punishment system published by the United States Department of Justice on 12 September 2000. The review pointed at widespread racial and geographic disparities in the application of the death penalty. The findings also suggested that prosecutorial discretion in death penalty cases had resulted in arbitrariness in federal capital sentencing.

88. The legal proceedings must in all cases respect and ensure the right of review of both the factual and legal aspects of the case by a higher instance, which should be composed of judges other than those who dealt with the case at first instance. Furthermore, there can be no exception to the defendant's right to seek pardon, clemency, or commutation of the sentence. In this connection, reference is made to the view expressed by the Economic and Social Council in

its resolution 1989/64 in which the Council recommended that Member States providing for mandatory appeals or review with provisions for clemency or pardon in all cases of capital offence. In her last report to the Commission (E/CN.4/2000/3, para. 65), the Special Rapporteur drew attention to developments in the Caribbean, where a number of countries have taken steps to facilitate the implementation of death sentences by limiting the possibilities of persons facing the death penalty to petition international human rights bodies. In this regard, she notes that on 12 September 2000, the Judicial Committee of the Privy Council of the United Kingdom decided to commute the death sentences of six persons in Jamaica, ruling that it was unlawful to execute persons who had appeals pending before international bodies, such as the United Nations Human Rights Committee and the Inter-American Commission on Human Rights.

89. The practice of setting up special tribunals or jurisdictions in response to situations of internal conflict or other exceptional circumstances may also have serious implications for the defendants' right to fair trial. The judges appointed to such tribunals are often closely connected and at times directly accountable to the law enforcement authorities or the military. Such tribunals are often established in order to expedite trials, which may result in hastily imposed death sentences. There are reports of serious violations of fair trial standards in connection with proceedings before special tribunals, particularly as concerns the independence and impartiality of the judiciary.

90. The Special Rapporteur is also concerned over reports that most of the more than 60 foreigners currently on death row in the United States of America have been sentenced without being informed of their right under article 36 of the Vienna Convention on Consular Relations to receive legal assistance from their respective consulates. During the period under review, the Special Rapporteur sent an urgent appeal to the Government of the United States in relation to the case of Mr. Miguel Angel Flores, a Mexican national who had been sentenced to death for murder in the State of Texas in 1989. The Special Rapporteur had received reports indicating that following his arrest Mr. Flores had not been informed of his right to communicate with the Mexican consulate. It was further reported that the Government of Mexico had not been made aware of his arrest until one year after he was tried, convicted and sentenced to death. In this connection, she wishes to draw attention to Advisory Opinion No. 6 issued on 2 October 1999 by the Inter-American Court of Human Rights on the individual rights of detained aliens who may face the death penalty. In its advisory opinion, the Court stated that the right to be informed of consular assistance under article 36 of the Vienna Convention is integral to international standards on human rights. It further concluded that the imposition of the death penalty under these circumstances constitutes a violation of the right not to be subjected to arbitrary deprivation of life, as set forth in international human rights instruments, such as the American Convention on Human Rights and the International Covenant on Civil and Political Rights.

3. Desirability of the abolition of the death penalty

91. More than half of the countries in the world have now abolished the death penalty either in law or in practice. Some 75 countries and territories have abolished capital punishment for all crimes, and around 30 of them did so in the last 10 years. The adoption of the Second Optional

Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, of 1989 has now been ratified by 43 States and another 7 States have signed it, thus indicating their intention of becoming States parties at a later stage.

92. The Special Rapporteur is aware that under her mandate she must restrict herself to taking action in relation to executions which violate restrictions imposed by international law and the resolutions adopted by various United Nations bodies. This is precisely what she has done. At the same time, the global picture and trends cannot be overlooked as they are reflected in those resolutions. They also offer guidance for developing the mandate entrusted to the Special Rapporteur. It is essential to report on the feasibility of retentionist countries respecting the safeguards and restrictions pertaining to the death penalty. So far these continue to be violated. It is for this reason that the Special Rapporteur has deep concern as regards the capacity of retentionist countries to observe these standards. These concerns have been reflected by various United Nations human rights organs and bodies which, on several occasions, have reaffirmed the growing international consensus in favour of the abolition of the death penalty. Most recently, at its fifty-fifth session the Commission on Human Rights adopted for the fourth consecutive year a resolution (2000/65) calling for restrictions on the use of the death penalty. The Commission urged all States that still maintain the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty. The resolution also called on retentionist States to comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child with regard to the death penalty. At the same time, the Special Rapporteur notes that at its fifty-fourth session the Third Committee of the General Assembly decided not to consider draft resolution A/C.3/54/L.8/Rev.1 on the question of the death penalty. The resolution, submitted by the European Union and co-sponsored by 72 delegations, would have echoed Commission resolution 2000/65 in calling on all States that still maintain the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty.

93. On the regional level, both the European and the American Conventions on Human Rights have special protocols for the abolition of the death penalty. All new members of the Council of Europe are required to sign within one year, and ratify within three years of joining the organization Protocol No. 6 to the European Convention concerning the abolition of the death penalty, and are also required to place an immediate moratorium on executions. At the time of writing, 39 countries had ratified and one had signed Protocol No. 6. In this context, the Special Rapporteur further notes that the African Commission on Human and Peoples' Rights at its twenty-sixth session, held in November 1999 in Kigali, adopted a resolution calling upon States parties to the African Charter on Human and Peoples' Rights, inter alia, to consider establishing a moratorium on executions and to reflect on the possibility of abolishing the death penalty. In the resolution the African Commission expressed concern that some States parties to the African Charter imposed the death penalty under conditions not in conformity with the rights pertaining to a fair trail guaranteed under the Charter.

94. The growing international consensus in favour of abolition is also illustrated by the fact that the Statute of the International Criminal Court, adopted in Rome on 17 July 1998, does not include capital punishment among the penalties that may be imposed by the Court. It is further

worth noting that the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda established by the Security Council in 1993 and 1994, respectively, are not authorized to impose death sentences.

95. The findings presented in the preceding paragraphs point at serious flaws as regards the respect for restrictions on the use of the death penalty and the implementation of fair trial standards in capital sentencing in retentionist countries. The Special Rapporteur is of the view that the nature and extent of these irregularities leave room for an unacceptable degree of arbitrariness in the application of the death penalty. The Special Rapporteur is further of the opinion that the execution of a death sentence passed after a trial in which basic fair trial standards, as provided for in article 14 of the International Covenant on Civil and Political Rights, were not respected constitutes a violation of the right to life. In view of these considerations, she strongly encourages all retentionist States to impose an immediate moratorium on executions and to set up commissions of inquiry to assess whether the safeguards and restrictions imposed on implementing the death penalty are being observed. The report of the Secretary-General to the Economic and Social Council on capital punishment found it worrisome that retentionist States do not publish any official statistics relating to the use of capital punishment (E/2000/3, para. 20). The dearth of information in this regard is a hindrance to monitoring the observance of the Safeguards guaranteeing protection of the rights of those facing death penalty.

VI. FOLLOW-UP TO RECOMMENDATIONS

96. In its resolution 2000/31 the Commission on Human Rights requested the Special Rapporteur to follow up on recommendations made in her reports following visits to particular countries. The Special Rapporteur fully recognizes the great importance of follow-up to her recommendations. Despite the limited resources available, she wishes to include a modest contribution to that end in this report, and hopes to be able to give a more comprehensive account on this issue in her subsequent reports.

97. Since her appointment, the Special Rapporteur has undertaken four country visits. The first mission was to the former Yugoslav Republic of Macedonia and Albania from 23 to 28 May 1999. The purpose of this visit was to assess the situation in Kosovo. Her second mission was to Mexico from 12 to 24 July 1999. Pursuant to resolution S-4/1 adopted by the Commission on Human Rights at its special session on East Timor, the Special Rapporteur undertook a joint mission from 4 to 10 November 1999, with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women. Her last visit was to Nepal, from 5 to 14 February 2000. The Special Rapporteur wishes to take this opportunity to thank the Governments concerned for having facilitated these missions.

98. The situation in Kosovo and East Timor had already reached disastrous proportions before the Special Rapporteur could travel to assess the conditions on the ground. In such circumstances the emphasis remained on ending the violence and reconstructing civil society in the absence of a national authority. In the case of Kosovo, the Special Rapporteur made three recommendations based on her preliminary observations and expressed her desire to revisit the area at a later date. She was scheduled to go to Belgrade and Kosovo in November 2000, but the mission was postponed owing to the rapidly evolving situation on the ground.

99. In her report (E/CN.4/2000/3/Add.1), the Special Rapporteur supported the presence of the international community in the area for collecting reliable information about reported human rights violations. She called for investigation and prosecution of those involved in systematic and calculated killings. She stressed that the independence of legal processes initiated in an atmosphere of outrage and hostility had to be ensured. The Special Rapporteur warned that the challenges in rebuilding a traumatized society would be enormous, particularly if reprisals were not brought to an end. Finally, the Special Rapporteur suggested a heightened debate on key issues, inter alia, the involvement of the international community in crisis situations and the urgency of devising creative preventive action strategies. In this regard, she welcomes the report of the Secretary-General's Panel on United Nations Peace Operations (A/55/305-S/2000/809) which reviews the peace and security activities of the United Nations with a view to strengthening them to face new challenges. The Special Rapporteur supports the shift of emphasis from peacekeeping to peace-building. She further shares the view expressed in the report that "[w]here justice, reconciliation and the fight against impunity require it, the Security Council should authorize such experts, as well as relevant criminal investigators and forensic specialists, to further the work of apprehension and prosecution of persons indicted for war crimes in support of United Nations criminal tribunals" (para. 39).

100. Regrettably, the recommendations addressed to the Government of Indonesia presented following the joint mission of three special rapporteurs to East Timor have so far not been implemented (see A/54/660, sect. V). The Office of the United Nations High Commissioner for Refugees has not been given "unimpeded access" to refugees in West Timor. These people are neither safe in West Timor nor free to leave the camps for East Timor in a safe and dignified way. After the mission, the Special Rapporteur also addressed a number of recommendations to the United Nations Transitional Administration in East Timor and she will report on progress in that regard in her next report.

101. The Special Rapporteur is pleased to note the interest taken by the Government of Mexico in her mission report (E/CN.4/2000/3/Add.3), and she welcomes the exchanges with the Government regarding its content. She was particularly encouraged by the responses she received from a wide cross-section of society to her report. Many of the Special Rapporteur's recommendations have been acted upon, although all have not been fully implemented. The Government has shown some readiness to reopen dialogue with armed political groups, such as the Zapatista National Liberation Army. Some measures aimed at reforming the criminal legal system are being considered, but the climate of impunity still looms large in Mexico. Reports also indicate that human rights defenders have continued to receive death threats. The Special Rapporteur looks forward to continuing her dialogue with the Government in regard to the follow-up to her report.

102. Reports of ongoing human rights violations by the Nepalese police and continued violence by the CPN (Maoist) remains a concern for the Special Rapporteur. She regrets that the dialogue between the Government and the CPN (Maoist) appears to have stalled. A new Government is now in place, and the Special Rapporteur is optimistic that it will consider her recommendations seriously.

VII. CONCLUDING REMARKS AND RECOMMENDATIONS

A. Concluding remarks

103. The Special Rapporteur is alarmed by the reports sent to her on a daily basis, which clearly illustrate the scope and seriousness of the problem of extrajudicial, summary or arbitrary executions worldwide. She is particularly disturbed by the increasing number of reports of indiscriminate killings of unarmed civilians, including women, children and elderly persons, by government-controlled security forces, paramilitary groups or non-State actors. These groups are also increasingly being deliberately targeted by the warring parties in situations of armed conflict and internal strife or unrest. The majority of such conflicts occur as a result of ethnic and religious tensions, which remain either unaddressed or suppressed until they erupt in violence.

104. It is incumbent upon States to take joint and separate action to combat these atrocities, which continue to terrorize innocent victims and traumatize entire generations. Eloquent declarations of commitment to the protection of human rights must be followed by concrete decisions and policies at the national level. The Special Rapporteur notes with concern that steps taken in reaction to ongoing human rights abuses are seldom successful or effective in curbing violence and bringing an end to extrajudicial, summary or arbitrary executions. Governments and key international bodies must as a matter of urgency explore ways of addressing situations of emerging conflict and violence at an early stage, so that the lives and security of innocent civilians can be protected.

105. It is with great frustration that the Special Rapporteur notes that in the absence of concrete action most of the recommendations presented in her earlier reports remain valid. She further notes with regret that in the present reporting period, a number of Governments have continued to ignore her urgent appeals in individual cases and failed to respond to letters requesting information regarding alleged violations of the right to life. Once again, the Special Rapporteur wishes to stress that the information received from Governments is of vital importance, as it enables her to form a balanced and objective view of the situation on the ground.

106. Non-governmental organizations, lawyers and private individuals engaged in human rights work are invaluable sources of information, advice and criticism for the Special Rapporteur. She is grateful for the support she has received, and looks forward to continuing her cooperation with non-governmental organizations and other members of civil society. The role of the media in spreading awareness about human rights, including United Nations mechanisms, and drawing attention to issues of particular concern cannot be underestimated.

B. Recommendations

107. The recommendations presented in the previous report (E/CN.4/2000/3) remain valid and should be read in conjunction with the present report. In addition, the Special Rapporteur wishes to present the following recommendations in the hope that they will receive attention.

1. Genocide

108. The Special Rapporteur wishes to emphasize that the primary responsibility for prosecuting persons responsible for human rights abuses, including the crime of genocide, rests with the national authorities. However, in the event that the national justice system is unwilling or unable to carry out this function, the international community must ensure that widespread and systematic human rights violations are dealt with under a wider, universal jurisdiction. The Special Rapporteur welcomes the adoption of the Rome Statute of the International Criminal Court and believes that the Court will provide an important complement to national legal systems that are unable or unwilling to combat impunity by exercising their own jurisdiction. In this context, the Special Rapporteur calls on States to expedite the establishment of the International Criminal Court by ratifying the Statute without undue delay.

109. The Special Rapporteur encourages the States parties to the Convention on the Prevention and Punishment of the Crime of Genocide to explore ways of establishing a monitoring mechanism to supervise the implementation of the Convention. She calls on all concerned States to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, particularly by arresting and handing over suspects with a view to prosecuting those accused of the crime of genocide. The Special Rapporteur further notes that the International Criminal Court, once established, will have jurisdiction over the crime of genocide.

2. Excessive use of force by law enforcement officials

110. Governments should ensure that their police and security personnel receive thorough human rights training, particularly in regard to restrictions on the use of force and firearms in the discharge of their duties. This training should include the teaching of methods of crowd control without resorting to lethal force. All cases of excessive use of force by State agents should be thoroughly investigated and the persons responsible for such abuses brought to justice, even in times of political unrest.

3. Deaths in custody

111. All cases of custodial death should be promptly and thoroughly investigated by a body which is independent from the police or the prison authorities. Governments should guarantee the rights of persons in detention to receive visits from their lawyers and family and to have access to adequate medical care. When applicable, Governments should also continue to strengthen their cooperation with the International Committee of the Red Cross and allow its delegates free and unimpeded access to places of detention. In this connection, the Special Rapporteur reiterates her request to the Commission on Human Rights to call for the rapid adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with a view to establishing a system of periodic visits to places of detention. The Special Rapporteur recommends that national human rights commissions and ombudsman institutions pay particular attention to the problem of custodial deaths and encourages them to share their findings with her.

4. Death threats

112. The Special Rapporteur urges Governments to recognize their obligation to ensure the protection of the human rights of all persons under their jurisdiction, including the duty to investigate all instances of death threats or attempts against lives which are brought to their attention, regardless of the race, ethnicity, religious belief, political persuasion or other distinction of the victim. Governments must also take effective preventive measures to protect the security and integrity of those who are particularly exposed or vulnerable to extrajudicial, summary or arbitrary execution. At the same time, Governments should vigorously and consistently publicly denounce death threats, and establish and support policies and programmes condemning the use of violence and promoting a climate of tolerance.

5. Imminent expulsion of persons to countries where their lives are in danger

113. Governments that have not yet ratified the Convention and Protocol relating to the Status of Refugees are strongly encouraged to do so. Governments should refrain at all times from expelling persons in circumstances where respect for their right to life is not fully guaranteed. Refoulement of refugees or internally displaced persons to countries or areas where respect for their right to life is not fully guaranteed, as well as closure of borders preventing the escape of persons trying to flee a country, should at all times be prohibited. When necessary, the international community should stand ready to assist countries facing a massive influx of refugees whose lives may be in danger, to enable the host country to receive these persons in safety and dignity.

6. Acts of omission

114. Governments are obliged to prevent acts of violence, including extrajudicial, summary or arbitrary executions, and to promptly prosecute persons responsible for such abuses. Governments must under no circumstances allow impunity for human rights violations and should bring to justice persons who commit murder in the context of mob violence or under the pretext of so-called popular justice. Governments should under no circumstances harbour or support groups or persons engaged in acts of terrorism. State officials who fail to take action to prevent violations of the right to life should be prosecuted and punished, regardless of their rank or position. Governments should publicly denounce acts of violence and serious human rights violations. At the same time, they should refrain from making statements justifying or supporting such acts on the grounds of respect for cultural or religious sensitivities.

7. Impunity

115. Impunity in some countries continues as an entrenched political culture. To end it Governments have to show their total commitment to the rule of law. Civil society must continue to marshal public opinion against all forms of impunity for crimes of murder. In other cases, the legal system has to be strengthened and methods of investigation modernized.

8. Violations of the right to life of children

116. The use of children in armed conflicts or making them targets of callous killings requires stern measures on the part of Governments in order to put an end to such injustice against those who cannot defend themselves. The international community should, with one voice, condemn and take action against non-State actors who continue to use children in conflicts, thus putting their lives in perpetual danger. The Special Rapporteur urges States to take immediate unilateral action to raise the age of enlistment in the armed forces to 18 years and to ratify as a matter of urgency the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

9. Traditional practices and customs affecting the right to life - honour killings

117. The main reason for the perpetuation of the practice of "honour" killings is the lack of political will by Governments to bring the perpetrators of these crimes to justice. Governments are urged to make legislative changes to ensure that such killings receive no discriminatory treatment under the law and sensitize their judiciary to gender issues. Those threatening the life of a female victim should be brought to justice. Government homes for women should not be permitted to detain against their will women whose lives are at risk. Prisons should never be used to detain potential victims of honour killings.

10. The right to life and sexual orientation

118. The Special Rapporteur encourages Governments to renew their efforts aimed at protecting the security and the right to life of persons belonging to sexual minorities. Acts of murder and death threats should be promptly and thoroughly investigated regardless of the sexual orientation of the person or persons concerned. Measures should include policies and programmes geared towards overcoming hatred of and prejudice against homosexuals and sensitizing public officials and the general public to crimes and acts of violence directed against members of sexual minorities.

11. Capital punishment

119. The Special Rapporteur notes that the Safeguards and guarantees for the protection of those facing capital punishment are not being observed in a large number of cases brought to her attention. She is also concerned at the lack of transparency and information on capital punishment and on the execution of death sentences. She therefore calls upon all retentionist Governments to impose a moratorium on executions and to set up national commissions to report on the situation in the light of international standards and resolutions before executions are resumed. The execution of children who were under the age of 18 at the time of the crime are only being carried out by a very few countries. There is a virtual consensus that it should be abolished. The Special Rapporteur urges the few countries still executing children to abolish the practice. In order to scrutinize whether safeguards relating to capital punishment are being observed, it is urged that every relevant court decision be made public and available to those monitoring its use.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2000/31

Corrigendum

Paragraph 67, line 2

Delete Costa Rica.

GE.01-12445 (E)